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PART - II

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GOVERNMENT OF PUDUCHERRY
HOME DEPARTMENT

(G.O. Ms. No. 27, Puducherry, dated 06th May 2025)

NOTIFICATION

The Lieutenant-Governor, Puducherry, is pleased to notify the Comprehensive Guidelines for the admissibility of digital and electronic records under the Bharatiya Sakshya Adhiniyam (BSA), 2023, which are as follows:—

1. *Objective.*— The objective of the Standard operating procedure is to provide clear and Comprehensive Guidelines for the admissibility of digital and electronic records in accordance with the Bharatiya Sakshya Adhiniyam (BSA), 2023. This is intended to give an overall idea to the Investigating Officer about the digital or electronic evidence, its collection, preservation and presentation before the Court. The prime objective is to facilitate the acceptance of electronic records or digital evidence in Judicial Proceedings. Sections 61, 62 and 63 of the Bharatiya Sakshya Adhiniyam, 2023 deals with documentary evidence, electronic records and their admissibility.

2. *Overview of Electronic or Digital Evidence and its Collection.*— (a) Electronic records or digital evidence is a form of documentary evidence.

(b) These are computer system generated outputs, either printed on papers or written on a CD/DVD or stored in a pen drive, disk, memory card, *etc.*

(c) The 'computer output' includes various types of digital data, such as:

- (i) e-mails;
- (ii) Server logs;
- (iii) Documents;
- (iv) Messages;
- (v) Websites;
- (vi) Locational evidence;
- (vii) Voice mail messages;
- (viii) Images and videos, *etc.*

semi-conductor memory or any other electronic form, produced by a computer, communication device, or otherwise.

(d) These evidences have to be collected by the Investigating Officer with due care and caution with strict adherence to the legal procedures.

(e) These can be collected either by (i) search and seizure (section 106, 185 of the BNSS, 2023 section 23(2) of the Bharatiya Sakshya Adhiniyam or by (ii) production through summons (section 94 of the BNSS 2023).

(f) While doing seizure, the 'Hash value' of the electronic record shall be noted in the Case Diary to ensure preservation and integrity of the data.

(g) It is noteworthy to mention that the calculation of 'Hash value' of the electronic record was not a condition in the old law.

(h) When the original computer-generated output is collected and produced before the Court, it is called Primary Evidence (section 57 of the Bharatiya Sakshya Adhiniyam, 2023), *e.g.*, DVR/NVR machine itself which was connected to the CCTV camera.

(i) When a copy of the computer output or a part of it is collected and produced before the Court, it is called Secondary Evidence (section 58 of the Bharatiya Sakshya Adhiniyam, 2023), *e.g.*, a CCTV footage, present in the DVR/NVR machine, copied on a CD/DVD or a pen drive or hard disk.

(j) When any Secondary Evidence is presented before the Court, a Certificate A is also to be submitted to support the admissibility of the digital evidence.

(k) Safeguard measures such as using of bubble wrap, anti-static bags, faraday bags, *etc.*, shall be used by the Investigating Officer to prevent tampering/damage to the electronic record.

A. Evidentiary value of Digital and Electronic Records: According to the Bharatiya Sakshya Adhiniyam, 2023, the electronic or digital records shall be treated with the same legal effect, validity, and enforceability as any other document, as long as they comply with Section 63 of the Bharatiya Sakshya Adhiniyam, 2023.

B. Admissibility of Digital and Electronic Records (Section 63(1) and (2) of the Bharatiya Sakshya Adhiniyam, 2023): Any information from an electronic record that is printed on paper, stored, recorded, or copied on optical (CD/DVD) or magnetic media (hard disk, pen drive,

memory card). Semi-conductor memory (RAM, ROM), or any electronic form (called the computer output) shall also be considered as a document. It can be used as evidence in any proceedings without insisting upon production of original or further proof as long as it meets the following conditions:—

(a) It was created by the computer or device regularly used for activities by the person in lawful control during the relevant time.

(b) During this time, similar information was regularly supplied into the computer or device as part of normal activities.

(c) The computer or device was working properly during this time, and nothing affected the electronic record and its accuracy.

(d) The information in the electronic record comes from the information regularly entered into the computer or device during normal activities.

C. In case of use of multiple computers (Section 63(3) of the Bharatiya Sakshya Adhiniyam, 2023): If, multiple computers or communication devices were used to create, store or process information for an ongoing activity, they are treated as a single computer or communication device. This applies whether they worked independently on a network, or through an intermediary. All of them shall be considered as a single computer/communication device under this provision.

D. Input and Output (Section 63(5) of the Bharatiya Sakshya Adhiniyam, 2023): Information can be supplied to a computer in various forms (text, data, *etc.*) directly or indirectly (with or without human intervention), using appropriate equipment. It does not matter if, computer output was generated directly or through appropriate equipment.

E. Certificate Under Section 63 (4) (C) of the Bharatiya Sakshya Adhiniyam, 2023:

(a) In legal proceedings, if, someone wants to present an electronic record as evidence, he needs to submit a Certificate along with the records.

(b) The Certificate shall be signed by a person/party in-charge of the computer or communication device or the person in-charge of the management of the relevant activities (whichever is appropriate) in the form attached herewith as Annexure-I.

(c) The Certificate shall be signed by an expert in the form attached herewith as Annexure-II.

(d) The above certificates Under Section 63(4) (c) of the Bharatiya Sakshya Adhiniyam, 2023 is a corresponding provision of Section 65(3) of Indian Evidence Act 1872 with certain modifications. The comparative chart below clarifies difference between the old and the new law relating to the admissibility of electronic records or digital evidences.

F. Comparative Chart of Section 65-B, Indian Evidence Act, 1872 and Section 63, of the Bharatiya Sakshya Adhiniyam, 2023:

1. **Scope of 'Computer Output':** The Indian Evidence Act defined "computer output", as information printed on paper, stored, recorded, or copied in optical or magnetic media produced by a computer.

The Bharatiya Sakshya Adhiniyam expands this definition to include information stored, recorded, or copied in semi-conductor memory or any other electronic form, produced by a computer, communication device, or otherwise.

2. **Conditions for Admissibility:** The Indian Evidence Act refers to "computer output containing the information produced by the computer".

The Bharatiya Sakshya Adhiniyam extends this to include communication devices, and the creation of information, not just storage or processing.

3. **Computer Operation and period:** The Indian Evidence Act mentions the computer operating properly during the material part of the period.

The Bharatiya Sakshya Adhiniyam adds "communication devices" and ensures that these devices were also operating properly during the relevant period.

4. **Single Computer Definition:** The Indian Evidence Act considers all computers used for a purpose over a period as single computer, detailing different combinations.

The Bharatiya Sakshya Adhiniyam introduces concepts like "standalone mode", "computer system", "computer network", "computer resource" and "intermediary" as part of the definition.

5. **Certificate for Evidence:** Under Section 65-8 Indian Evidence Act certificate shall to be signed by a person:

(i) Occupying responsible official position in relation to the operation of the relevant device, or

(ii) Management of the relevant activities (whichever shall be appropriate).

But Under Section 63 Bharatiya Sakshya Adhiniyam, 2023 Certificate shall be signed by a person:

(i) The Certificate shall be signed by a person/party in-charge of the computer or communication device or the person in- charge of the management of the relevant activities.

(By order of the Lieutenant-Governor)

Dr. SHARAT CHAUHAN,
Chief Secretary to Government.

THE SCHEDULE
[See section 63(4)(c)]

CERTIFICATE

PART – A

(To be filled by the Party)

I, (Name), son/daughter/
spouse of residing/employed
at do
hereby solemnly affirm and sincerely state and submit as follows:–

I have produced electronic record/output of the digital record taken from the following device/digital record source (tick mark):—

Computer/Storage Media : ☐

DVR : ☐

Mobile : ☐

Flash Drive : ☐

CD/DVD : ☐

Server : ☐

Cloud : ☐

Other : ☐

Other :

Make and Model :

Color :

Serial Number :

IMEI/UIN/UID/MAC/Cloud ID (as applicable)
and any other relevant information, if any, about the device/digital record (specify).

The digital device or the digital record source was under the lawful control for regularly creating, storing or processing information for the purposes of carrying out regular activities and during this period, the computer or the communication device was working properly and the relevant information was regularly fed into the computer during the ordinary course of business. If the computer/digital device at any point of time was not working properly or out of operation, then it has not affected the electronic/digital record or its accuracy. The digital device or the source of the digital record is:—

Owned : ☐

Maintained : ☐

Managed : ☐

Operated : ☐

by me (select as applicable).

I state that the HASH value/s of the electronic/digital record/s is, obtained through the following algorithm:–

☐ SHA1 :

☐ SHA256 :

☐ MD5 :

☐ Other (Legally acceptable standard)

(Hash report to be enclosed with the certificate)

(Name and signature)

Date (DD/MM/YYYY) :

Time (IST) : hours (In 24 hours format)

Place :

PART – B

(To be filled by the Expert)

I, (Name), son/daughter/
spouse of residing/employed
at do
hereby solemnly affirm and sincerely state and submit as follows:–

The produced electronic record/output of the digital record are
obtained from the following device/digital record source (tick mark):–

Computer/Storage Media : ☐

DVR : ☐

Mobile : ☐

Flash Drive : ☐

CD/DVD : ☐

Server : ☐

Cloud : ☐

Other : ☐

Other :

Make and Model :

Color :

Serial Number :

IMEI/UIN/UID/MAC/Cloud ID (as applicable)
and any other relevant information, if any, about the device/digital
record (specify).

I state that the HASH value/s of the electronic/digital record/s
is, obtained through the following algorithm:-

☐ SHA1 :

☐ SHA256 :

☐ MD5 :

☐ Other (Legally acceptable standard)

(Hash report to be enclosed with the certificate)

(Name, designation and signature)

Date (DD/MM/YYYY) :

Time (IST) : hours (In 24 hours format)

Place :